

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795 <div>STAFF REPORT</div>		Hearing Date/Agenda Number P.C. 12/10/03 Item: 3.h.	
		File Number CP 03-060	
		Application Type Conditional Use Permit	
		Council District 3	
		Planning Area: Central SNI: Five Wounds/Brookwood Terrace	
Assessor's Parcel Number(s) 472-04-011			
PROJECT DESCRIPTION		Completed by: John Davidson	
Location: East side of S. 24 th Street, approximately 250 feet north of E. William Street			
Gross Acreage: 0.16	Net Acreage: 0.16	Net Density: N/A	
Existing Zoning: LI- Light Industrial	Existing Use: Vacant		
Proposed Zoning: No change	Proposed Use: contractor's yard, including a 200 square foot foreman's building		
GENERAL PLAN		Completed by: JED	
Land Use/Transportation Diagram Designations: Light Industrial with Mixed Industrial Overlay		Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations	
SURROUNDING LAND USES AND ZONING		Completed by: JED	
North: Single-Family Residence	LI Light Industrial		
East: Single-Family Residence	LI Light Industrial		
South: Duplex	LI Light Industrial		
West: Industrial	LI Light Industrial		
ENVIRONMENTAL STATUS		Completed by: JED	
<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on		<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete	
FILE HISTORY		Completed by: JED	
Annexation Title: McLaughlin No. 16		Date: 07/27/1981	
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION			
<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial		Date: _____ 	Approved by: _____ <input type="checkbox"/> Action <input type="checkbox"/> Recommendation
OWNERS	APPLICANT/DEVELOPER		
Mary and Gaulter Torres 3022 Stevens Lane San Jose, CA 95148	Mariela Ramos 2102 Rexford Way San Jose, CA 95128		

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: John Davidson

Fire Department & Department of Public Works
See conditions of approval.

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Ms. Mariela Ramos, is requesting a Conditional Use Permit to allow a contractors yard, including a 200 square foot foreman's building, on a 0.16 gross acre site. In accordance with Table 20-110 of the San José Municipal Code, a Conditional Use Permit (CUP) is required for a contractor's yard use in the LI Light Industrial Zoning District.

The site is currently vacant. The site has a zoning designation of LI Light Industrial and a Light Industrial General Plan land use designation. The site is bordered by legal non-conforming residences to the north, east, and south, and by industrial uses across S. 24th Street to the west.

The applicant proposes to use the site as a contractor's yard, which would include storing two company vehicles on site in accordance with the attached plan set. No storage of building materials is planned. The applicant is also proposing to construct a 200 square foot foreman's building, provide perimeter landscaping and fencing, and on-site signage as part of this application. The hours of operation of the contractor's yard would be from 6 a.m. to 7 p.m., Monday through Saturday. In order to reduce noise impacts to neighboring residences, company vehicles would not be allowed to leave the site until after 7 a.m. The proposed use is also subject to Zoning Ordinance performance standards for industrial uses adjacent to residences per Zoning Ordinance Table 20-135, which limits the noise from the use to 55 decibels when measured at the property line.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that under the provisions of Section 15303(c) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Section 15303(c) of the CEQA guidelines provides an exemption for the construction and location of limited numbers of new, small facilities or structures.

GENERAL PLAN CONFORMANCE

The existing facility has a General Plan Land Use/Transportation Diagram designation of Light Industrial with a Mixed Industrial Overlay. The proposed contractor's yard is an industrial use that is consistent with the General Plan designation.

ANALYSIS

The key issue is the proposed use in relation to the Five Wounds/Brookwood Terrace Strong Neighborhoods Improvement (SNI) Plan and the pending General Plan Amendment (File Number GP03-03-008), that is a result of that improvement plan.

The Five Wounds/Brookwood Terrace SNI Plan indicates that developing an economic strategy for the William and 24th-McLaughlin commercial nodes is the number one priority for the neighborhood. The vision is to provide an attractive, walkable commercial neighborhood along McLaughlin Avenue and S. 24th Street. This vision is not achievable under the current zoning and General Plan Land Use designations for the neighborhood, which are predominantly Light Industrial. As part of the action items for this neighborhood priority, the SNI Plan indicates that the Planning Department should amend the General Plan and Zoning to allow for mixed-use development and other desired uses.

The Planning Department has initiated a General Plan amendment for the area to facilitate the conversion of the area to commercial uses. The General Plan designation of the subject property is slated to change from Light Industrial to Neighborhood/Community Commercial. The General Plan amendment was heard and recommended for approval by the Planning Commission by a vote of 7-0 at the November 17, 2003 hearing. If the General Plan Amendment is approved by the City Council at the December 16, 2003 hearing, it would become effective on January 16, 2004. Until that time, the Planning Commission has an obligation to review projects in light of the existing General Plan and Zoning designations.

To facilitate eventual redevelopment of the property, Planning staff is proposing a five-year time condition on the proposed use. In addition, staff's direction to the applicant has been to minimize investment in the property, so that the costs to improve the property for the contractor's yard use can be amortized over a shorter period of time. The applicant is proposing improvements to the site including fencing and screening landscaping that significantly improve the appearance of the site. The fact that the site will be occupied will also improve the overall safety of the neighborhood by providing an additional set of eyes on the street, and by locating an additional property owner with a vested interest in the future success of the neighborhood. The applicant is aware that the General Plan Designations in the area are changing and has agreed to a five-year time condition on the project.

By addressing the issue of neighborhood compatibility through a time condition on the project, the contractor's yard will not hinder the future redevelopment of the 24th Street/McLaughlin Avenue corridor.

COMMUNITY OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Additionally, the Strong Neighborhoods Initiative Neighborhood Action Committee was notified via postcard as part of the application review process. Staff has been available to discuss the proposal with members of the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Light Industrial with a Mixed Industrial Overlay on the adopted San José 2020 General Plan Land Use/Transportation Diagram, and the proposed use is consistent with this designation.
2. Title 20 of the San José Municipal Code allows a contractor's yard use in the LI Light Industrial Zoning District only upon issuance of and in compliance with a Conditional Use Permit.
3. This Conditional Use Permit proposes a contractor's yard use and site modifications to accommodate that use at the subject property.
4. The 0.16 gross acre subject site is currently vacant.
5. The site is bordered by legal non-conforming residences to the north, east, and south, and by industrial uses across S. 24th Street to the west.
6. There is a pending General Plan Amendment for the site, which would change the General Plan Land Use designation from Light Industrial to Neighborhood/Community Commercial.
7. The applicant has agreed to a five-year time condition for the proposed use.
8. Under the provisions of Section 15303(c) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project conforms to the City's General Plan.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and

loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and

3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and by other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans

entitled, "Genesis Roofing & Tear-Offs, 374 S. 24th Street, San Jose, CA" dated November 13, 2003 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).

3. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Discretionary Review.** The Director of Planning maintains the right of discretionary review of requests to alter or amend conditions or restrictions of this Conditional Use Permit incorporated by reference in this Permit in accordance with Section 20.44.200 of the San José Municipal Code.
5. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-14336) to the satisfaction of the Director of Public Works:
 - a. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - b. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
 - c. **Street Improvements:** Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
6. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
7. **Landscaping.** No new landscaping is proposed. All landscaping shall conform with the approved landscape plan and shall be supported by an automatic irrigation system. All dead plant material is to be removed and replaced by the property owner.
8. **Hours of Operation.** Hours of operation are limited to 6 a.m. to 7 p.m., Monday through Saturday. Commercial vehicles are not allowed to leave the site until after 7 a.m.
9. **Noise.** Noise generated at the subject site shall conform to noise performance standards set forth in Table 20-135 of the San José Municipal Code.

10. **Signage.** Signage as shown on the approved plan set is approved and constitutes the approved sign program for the site.
11. **Site Lighting.** On site lighting is approved as shown on the approved plan set and shall conform to City Council Policy 4-3 entitled, "Outdoor Lighting on Private Property".

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Time Limit.** This Conditional Use Permit expires and has no further force or effect five [5] years from the date of this Permit. **PLEASE NOTE THAT THIS CONDITIONAL USE PERMIT HAS BEEN GRANTED FOR A PERIOD OF 5 YEAR(S) ONLY. YOU ARE BEING SPECIFICALLY AND SEPARATELY ADVISED OF THIS TIME LIMITATION SO THAT YOU WILL CONSIDER THIS TIME LIMITATION IN YOUR DECISION TO ACCEPT THIS PERMIT OR AS YOU MAKE ANY INVESTMENT DECISION RELATED TO THIS PROPERTY.**
3. **Renewal.** The permit holder may seek renewal of a time-conditioned Conditional Use Permit by filing a timely renewal application on the form provided by the Director of Planning. In order to be timely, an application for renewal must be filed more than 90 calendar days but less than 180 days prior to the expiration of the Conditional Use Permit. Once a renewal application has been filed in a timely manner, the expiration date of the Conditional Use Permit is automatically extended until either the issuance or the denial of the application for renewal has become final.
4. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.